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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
Plaintiff,)
)
v.)
)
PARKER HANNIFIN CORPORATION)
and)
CENTRAL SPRINKLER CORPORATION)
)
Defendants.)

CIVIL ACTION NO. 05-1351

FILED

[Signature]

CONSENT DECREE WITH PARKER HANNIFIN CORPORATION

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
Parker Hannifin, Inc.)	
)	
Defendant.)	
_____)	

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606, 9607.

B. The United States in its complaint seeks, inter alia: (1) reimbursement of costs incurred by EPA and the Department of Justice for response actions at the North Penn Area 6 Superfund Site in Lansdale Borough, Montgomery County, Pennsylvania, ("Site") together with accrued interest; and (2) performance of studies and response work by the defendant at the Site consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended) ("NCP").

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C. In accordance with the NCP and Section 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified the Commonwealth of Pennsylvania (the "State") on April 21, 2000 of negotiations with potentially responsible parties regarding the implementation of the remedial design and remedial action for the Site, and EPA has provided the State with an opportunity to participate in such negotiations and be a party to this Consent Decree.

D. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the Department of the Interior, the National Oceanic and Atmospheric Administration, and the Pennsylvania Department of Environmental Protection on November 1, 2000 of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship and encouraged the trustee(s) to participate in the negotiation of this Consent Decree.

E. The Defendant that has entered into this Consent Decree ("Settling Defendant") does not admit any liability to the Plaintiff arising out of the transactions or occurrences alleged in the complaint, nor does it acknowledge that the release or threatened release of hazardous substance(s) at or from the Site constitutes an imminent or substantial

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endangerment to the public health or welfare or the environment.

F. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on March 31, 1989, 54 Fed. Reg. 13296.

G. In response to a release or a substantial threat of a release of a hazardous substance(s) at or from the Site, EPA commenced on September 28, 1993, a Remedial Investigation and Feasibility Study ("RI/FS") for Operable Unit 3 for the Site pursuant to 40 C.F.R. § 300.430.

H. EPA completed a Remedial Investigation ("RI") Report and a Feasibility Study ("FS") Report in August 1999.

I. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the FS and of the proposed plan for remedial action on December 9, 1999, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator based the selection of the response action.

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J. The decision by EPA on the remedial action to be implemented as Operable Unit 3 ("OU3") for the Site is embodied in a final Record of Decision ("ROD"), executed on August 10, 2000, on which the State has given its concurrence. The ROD includes a responsiveness summary to the public comments. Notice of the final plan was published in accordance with Section 117(b) of CERCLA.

K. Based on the information presently available to EPA, EPA believes that the Work will be properly and promptly conducted by the Settling Defendant if conducted in accordance with the requirements of this Consent Decree and its appendices.

L. Solely for the purposes of Section 113(j) of CERCLA, the Remedial Action selected by the ROD and the Work to be performed by the Settling Defendant shall constitute a response action taken or ordered by the President.

M. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

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NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has personal jurisdiction over the Settling Defendant. Solely for the purposes of this Consent Decree and the underlying complaints, Settling Defendant waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Settling Defendant shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and upon Settling Defendant and its successors and assigns. Any change in ownership or corporate status of Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Settling Defendant's responsibilities under this Consent Decree.

3. Settling Defendant shall provide a copy of this Consent Decree to each contractor hired to perform the Work (as

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defined below) required by this Consent Decree and to each person representing Settling Defendant with respect to the Site or the Work and shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Consent Decree. Settling Defendant or its contractors shall provide written notice of the Consent Decree to all subcontractors hired to perform any portion of the Work required by this Consent Decree. Settling Defendant shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the Work contemplated herein in accordance with this Consent Decree. With regard to the activities undertaken pursuant to this Consent Decree, each contractor and subcontractor shall be deemed to be in a contractual relationship with the Settling Defendant within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the

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appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

"Companion Consent Decrees" shall mean all those Consent Decrees, other than this Consent Decree, entered into to perform the OU3 Remedial Design/Remedial Action at the North Penn Area 6 Superfund Site.

"Consent Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXIX). In the event of conflict between this Decree and any appendix, this Decree shall control.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"Duly Authorized Representative" shall mean a person set forth or designated in accordance with the procedures set forth in 40 C.F.R. § 270.11(b).

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"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"PADEP" shall mean the Pennsylvania Department of Environmental Protection and any successor departments or agencies of the State.

"Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Consent Decree, verifying the Work, or otherwise implementing, overseeing, or enforcing this Consent Decree, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Sections VII, IX (including, but not limited to, attorneys fees and any monies paid to secure access and/or to secure institutional controls, including the amount of just compensation), XV, and Paragraph 84 of Section XXI.

"Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

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"Municipal Solid Waste" shall mean all waste materials generated by households, including single and multi-family residences, and hotels and motels. The term also includes waste materials generated by commercial, institutional, and industrial sources, to the extent such wastes (A) are essentially the same as waste normally generated by households, or (B) are collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services and, regardless of when generated, would be considered conditionally exempt small quantity generator waste under regulations issued pursuant to Section 3001(d)(4) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)(4)). Examples of Municipal Solid Waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste. The term does not include combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

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"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

"Operable Unit 3" or "OU3" shall mean the response actions relating to the ground water contamination addressed by the Record of Decision for the Site signed on August 10, 2000, by the Regional Administrator, EPA Region III, or his/her delegate, and all attachments thereto. The ROD is attached as Appendix A.

"Operation and Maintenance" or "O & M" shall mean all activities required to maintain the effectiveness of the Remedial Action as required under the Operation and Maintenance Plan approved or developed by EPA pursuant to this Consent Decree.

"Oversight Costs" shall mean, for purposes of this Consent Decree only, that portion of Future Response Costs incurred by EPA in monitoring and supervising the Settling Defendant's performance of the Work to determine whether such performance is consistent with the requirements of this Consent Decree, including costs incurred in reviewing plans, reports and other documents submitted pursuant to this Consent Decree, as well

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as costs incurred in overseeing implementation of the Work; however, Oversight Costs do not include, inter alia: (1) the costs of direct action by EPA to investigate, evaluate or monitor a release, threat of release, or a danger posed by such release or threat of release; (2) the costs of litigation or other enforcement activities; (3) the costs of determining the need for or taking direct response actions by EPA to conduct a removal or remedial action at the Site, including but not limited to, the cost of activities by EPA pursuant to Sections VII (Remedy Review); and XV (Emergency Response) of this Consent Decree; (4) the cost of undertaking the five-year review set forth in Section VII (Remedy Review) or otherwise determining whether or to what extent the Work has reduced the release or threat of release at the Site; (5) the cost of enforcing the terms of this Consent Decree, including all costs incurred in connection with Dispute Resolution pursuant to Section XIX (Dispute Resolution); (6) the cost of securing access under Section IX (Access); and (7) the cost of work performed under Section VI (Performance of Work by Settling Defendant), Paragraph 10-16 of this Consent Decree.

"Owner, Operator, or Lessee of Residential Property" shall mean a person who owns, operates, manages, or leases Residential Property and who uses or allows the use of the

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Residential Property exclusively for residential purposes.

"Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

"Parties" shall mean the United States and the Settling Defendant.

"Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through lodging of this Consent Decree, plus Interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such date.

"Performance Standards" shall mean the cleanup standards and other measures of achievement set forth in the ROD attached hereto as Appendix A (such other measures of achievement shall include those derived from any Technical Impracticability evaluation conducted as provided in Section IX of the ROD) and those that are developed by the Settling Defendant and approved by EPA during Remedial Design.

"Plaintiff" shall mean the United States.

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901 et seq. (also known as the Resource Conservation and Recovery Act).

"Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Operable Unit 3 at the Site signed on

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August 10, 2000, by the Regional Administrator, EPA Region III, or his/her delegate, and all attachments thereto. The ROD is attached as Appendix A.

"Remedial Action" shall mean those activities, except for Remedial Design and Operation and Maintenance, to be undertaken by the Settling Defendant to implement the ROD, in accordance with the final Remedial Design and Remedial Action Work Plans and other plans approved by EPA.

"Remedial Action Work Plan" shall mean the document developed pursuant to Paragraph 11 of this Consent Decree and approved by EPA, and any amendments thereto.

"Remedial Design" shall mean those activities to be undertaken by the Settling Defendant to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan.

"Remedial Design Work Plan" shall mean the document developed pursuant to Paragraph 11 of this Consent Decree and approved by EPA, and any amendments thereto.

"Residential Property" shall mean single or multi-family residences, including accessory land, buildings, or improvements incidental to such dwellings, which are exclusively for residential use.

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"Section" shall mean a portion of this Consent Decree identified by a roman numeral.

"Settling Defendant" shall mean Parker Hannifin, Inc.

"Sewage Sludge" means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly owned or federally owned treatment works.

"Site" shall mean the North Penn Area 6 Superfund Site, encompassing approximately 1000 acres, located in Lansdale Borough, Montgomery County, Commonwealth of Pennsylvania and depicted in the ROD.

"Small Business" shall mean any business entity that employs no more than 100 individuals and is a "small business concern" as defined under the Small Business Act (15 U.S.C. §§ 631 et seq.).

"Small Nonprofit Organization" shall mean any organization that does not distribute any part of its income or profit to its members, directors, or officers, employs no more than 100 paid individuals at the involved chapter, office, or department, and was recognized as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code of 1986.

"State" shall mean the Commonwealth of Pennsylvania.

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"Supervising Contractor" shall mean the principal contractor retained by the Settling Defendant to supervise and direct the implementation of the Work under this Consent Decree.

"United States" shall mean the United States of America.

"Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33); and (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

"Work" shall mean all activities Settling Defendant is required to perform under this Consent Decree, except those required by Section XXV (Retention of Records).

V. GENERAL PROVISIONS

5. Objectives of the Parties

The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Site by the design and implementation of response actions at the Site by the Settling Defendant, to reimburse Future Response Costs of the Plaintiff (excluding Oversight Costs), and to resolve the claims of Plaintiff against Settling Defendant as provided in this Consent Decree.

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6. Commitments by Settling Defendant

a. Settling Defendant shall finance and perform the Work as specified in Section VI of this Consent Decree. Settling Defendant shall also reimburse the United States for Future Response Costs (excluding Oversight Costs) as provided in this Consent Decree.

b. Settling Defendant's obligations to perform and finance work required by the ROD and this Consent Decree are as follows:

i) with regard to connecting affected residences to public water supplies (where affected residences are those having wells that are used for drinking water and that are contaminated at a level above the maximum contamination level): obligations of Settling Defendant and the signatories to the Companion Consent Decrees are joint and several;

ii) with regard to all other Work:

(a) Settling Defendant's obligations are several but not joint with any other signatories to the Companion Consent Decrees;

(b) Settling Defendant shall not be liable for any activities performed by or to be performed by any of the signatories to the Companion Consent Decrees; and

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(c) In the event one or more of the signatories to the Companion Consent Decrees become insolvent or otherwise fail to perform any of the work, Settling Defendant shall not assume liability for or be obligated to perform the work of that signatory to the Companion Consent Decrees.

c. In the event that Settling Defendant files for bankruptcy or is placed involuntarily in bankruptcy proceedings, Settling Defendant shall notify the United States within three (3) days of such filing.

7. Compliance With Applicable Law

All activities undertaken by Settling Defendant pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Settling Defendant must also comply with all applicable or relevant and appropriate requirements of all Federal and state environmental laws as set forth in the ROD. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered to be consistent with the NCP.

8. Permits

a. As provided in Section 121(e) of CERCLA and Section 300.400(e) of the NCP, no permit shall be required for any portion of the Work conducted entirely on-site (i.e.,

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within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal or state permit or approval, Settling Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. The Settling Defendant may seek relief under the provisions of Section XVIII (Force Majeure) of this Consent Decree for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Work.

9. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal, state or local statute, regulation, or ordinance.

VI. PERFORMANCE OF THE WORK BY SETTTLING DEFENDANT

10. Selection of Contractors.

a. Supervising Contractor.

i. All aspects of the Work to be performed by Settling Defendant pursuant to Sections VI (Performance of the Work by Settling Defendant), VII (Remedy Review), VIII (Quality Assurance, Sampling, and Data Analysis), and XV (Emergency Response) of this Consent Decree shall be under the

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direction and supervision of the Supervising Contractor, the selection of which shall be subject to acceptance or disapproval by EPA after a reasonable opportunity for review and comment by the State. Within twenty-one (21) days after the lodging of this Consent Decree, Settling Defendant shall notify EPA and the State in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor. EPA will issue a notice of disapproval or acceptance of the selection of such Supervising Contractor. If at any time thereafter, Settling Defendant proposes to change a Supervising Contractor, Settling Defendant shall give such notice to EPA and the State and must obtain a notice of acceptance of such change from EPA, after a reasonable opportunity for review and comment by the State, before the new Supervising Contractor performs, directs, or supervises any Work under this Consent Decree.

ii. If EPA disapproves the selection of a proposed Supervising Contractor, EPA will notify Settling Defendant in writing. Settling Defendant shall submit to EPA and the State a list of at least two contractors, including the qualifications of each contractor, that would be acceptable to them within thirty (30) days of receipt of EPA's notice. EPA will provide written notice of the names of any

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contractor(s) whose selection it would accept. Settling Defendant may select any contractor from that list and shall notify EPA and the State of the name of the contractor selected within twenty-one (21) days of EPA's written notice.

iii. If EPA fails to provide written notice of its acceptance or disapproval as provided in this Paragraph and this failure prevents the Settling Defendant from meeting one or more deadlines in a plan approved by the EPA pursuant to this Consent Decree, Settling Defendant may seek relief under the provisions of Section XVIII (Force Majeure) of this Consent Decree.

b. Other Contractors and Subcontractors.

i. The Settling Defendant shall submit to EPA and the State for acceptance by EPA the names and qualifications of any additional contractors and subcontractors they propose to use to satisfy any requirement of this Consent Decree before such contractor or subcontractor performs any Work. If EPA does not respond with a notice accepting or disapproving the proposal for additional contractors and subcontractors within fourteen (14) days of receipt by EPA of Settling Defendant's selections, the proposal for additional contractors and subcontractors shall be deemed accepted. In the event EPA disapproves any proposed

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contractor or subcontractor, Settling Defendant shall submit to EPA and the State a list of at least two contractors or subcontractors, including the qualifications of each, that would be acceptable to them within twenty (21) days of receipt of EPA's notice. EPA will provide written notice of the names of any contractor(s) or subcontractor(s) whose selection it would accept. Settling Defendant may select any contractor or subcontractor from that list and shall notify EPA and the State of the name of the contractor or subcontractor selected within ten (10) days of EPA's written notice.

11. Remedial Design/Remedial Action.

a. Within 30 days after EPA's acceptance of the selection of the Supervising Contractor pursuant to Paragraph 10, Settling Defendant shall submit to EPA and the State a work plan for the design of the Remedial Action at the Site ("Remedial Design Work Plan" or "RD Work Plan"). The RD Work Plan shall be prepared by the individual(s) and/or entities responsible for completion of the Remedial Design, except to the extent such persons have been disapproved by EPA. The Remedial Design Work Plan shall provide for design of the remedy set forth in the ROD, except that the Remedial design Work Plan shall be strictly limited to response actions that are necessary within the boundaries of the Source Location as

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defined in Appendix C and not elsewhere within the Site. The Remedial Design Work Plan shall also provide for achievement of the Performance Standards within the area of the Source Location that is specified in Appendix C and not elsewhere within the Site. The Remedial Design Work Plan shall further provide for other requirements set forth in the ROD and this Consent Decree that pertain to (1) the connection of residences to public water as required by the ROD, or (2) other requirements that directly relate to or can be satisfied or given effect through response actions in or on the Source Location. Except for the connection of residences to public water as required by the ROD, no activities outside the boundary of the Source Location shall be required of Settling Defendant. Upon its approval by EPA, the Remedial Design Work Plan shall be incorporated into and become enforceable under this Consent Decree. The Settling Defendant shall also submit to EPA and the State, at the time the Remedial Design Work plan is submitted, a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Remedial Design Work Plan shall include plans, schedules, and methodologies for implementation of all

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remedial design and pre-design tasks and shall include, at a minimum:

1. a Site Management Plan;
2. a Sampling and Analysis Plan, containing:
 - a. a Field Sampling Plan; and
 - b. a Quality Assurance Project Plan (QAPP);
3. A Pump Test Plan, if necessary, for collection of aquifer Source Location information for use in pumping well design;
4. a Remedial Design Contingency Plan;
5. a Treatability Study Work Plan which includes, at a minimum, plans and schedules for the preparation and submission of a Treatability Study Evaluation Report;
6. plans and schedules for the preparation and submission of a Preliminary Design Submittal (the preliminary design begins with the initial design and ends with the completion of approximately 30% of the design effort) containing, at a minimum:
 - a. a Design Criteria Report, including:
 1. project description;

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2. design requirements and provisions;
 3. preliminary process flow diagrams;
 4. operation & maintenance requirements;
- b. a Basis of Design Report, including:
1. justification of design assumptions;
 2. a project delivery strategy;
 3. remedial action permits plan for off-site permits;
 4. preliminary easement/access requirements;
- c. Preliminary Drawings and Specifications, including:
1. outline of general specifications;
 2. preliminary schematics and drawings;
 3. chemical and geotechnical data (including data from pre-design activities);

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- d. a value engineering screen; and
 - e. preliminary Remedial Action schedule.
7. plans and schedules for the preparation and submission of a pre-final design submittal which shall be submitted at approximately 90% of the design effort and shall address all of EPA's comments to the intermediate design, and, at a minimum, additionally include:
- a. if determined by EPA to be necessary, a preliminary Operation & Maintenance Plan;
 - b. a preliminary Construction Quality Assurance Plan ("CQAP") (the CQAP, which shall detail the approach to quality assurance during construction activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Supervising Contractor, to conduct a quality assurance program during the construction phase of the project);

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- c. a preliminary Remedial Action decontamination plan;
 - d. a draft final Remedial Action schedule;
 - e. a draft final Remedial Action contingency plan; and
 - f. a draft final Remedial Action HASP for EPA acceptance.
8. plans and schedules for the preparation and submission of a final design submittal which shall be submitted at 100% of the design effort and shall address all of EPA's comments to the pre-final design, and, at a minimum, additionally include:
- a. a final Remedial Action schedule;
 - b. a final Remedial Action contingency plan;
 - c. a final Remedial Action HASP for EPA acceptance;
 - d. a final Remedial Action waste management plan;
 - e. a preliminary Remedial Action decontamination plan and a schedule

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for the submission of the final
Remedial Action decontamination plan;

- f. a final Design Criteria Report;
- g. a final Remedial Action Sampling and Analysis Plan (directed at measuring progress towards meeting the Performance Standards);
- h. a final Basis of Design Report;
- i. final Drawings and Specifications;
- j. a revised Operation & Maintenance Plan and a schedule for submission of the final Operation & Maintenance Plan, if deemed necessary by EPA;
- k. a final Construction Quality Assurance Plan;
- l. a final Remedial Action decontamination plan; and
- m. a final project delivery strategy.

9. a Remedial Design schedule.

c. Upon approval of the Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by the State, and submittal of the Health and Safety Plan for all field activities to EPA and the State, Settling Defendant

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shall implement the Remedial Design Work Plan in accordance with the schedules and methodologies contained therein. The Settling Defendant shall submit to EPA and the State all plans, submittals, and other deliverables required under the approved Remedial Design Work Plan in accordance with the approved schedule therein for review and approval pursuant to Section XI (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Defendant shall not commence further Remedial Design field activities at the Site prior to approval of the Remedial Design Work Plan.

d. Upon approval, approval with conditions, or modification by EPA, as provided in Section XI (EPA Approval of Plans and Other Submissions), of all components of the final design submittal, the final design submittal shall serve as the Remedial Action Work Plan and shall be enforceable under this Consent Decree. The Settling Defendant shall implement the activities required under the Remedial Action Work Plan in accordance with the schedules and methodologies contained therein.

e. The Settling Defendant shall submit all plans, submittals, or other deliverables required under the Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section XI (EPA Approval of

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Plans and Other Submissions). Unless otherwise directed by EPA or required under the Remedial Design Work Plan, the Settling Defendant shall not commence physical activities at the Site prior to the date for commencement set forth in the approved schedule in the Remedial Action Work Plan.

12. Resident Engineer. Following EPA approval, approval with conditions, or modification by EPA, as provided in Section XI (EPA Approval of Plans and Other Submissions), of all components of the final design submittal, and prior to commencement of any on-Site Work under the Remedial Action Work Plan, the Settling Defendant shall submit to EPA the name and qualifications of a Resident Engineer to be present at the Site during construction to ensure that the Work is performed in accordance with the approved Remedial Action Work Plan. The Resident Engineer may be the same person as the Supervising Contractor. The Resident Engineer shall be familiar with all aspects of the Remedial Design approved by EPA. EPA retains the right to disapprove the use of any Resident Engineer proposed by Settling Defendant. In the event EPA disapproves the use of any proposed Resident Engineer, Settling Defendant shall submit to EPA and the State a list of at least two replacements, including the qualifications of each, who would be acceptable to them within

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twenty-one (21) days of receipt of EPA's notice. EPA will provide written notice of the names of any replacements whose use it would accept. Settling Defendant may select any replacement from the EPA notice and shall notify EPA and the State of the name of the replacement selected within ten (10) days of EPA's written notice. Settling Defendant shall ensure that the Resident Engineer performs on-Site inspections as necessary to ensure compliance with the approved Remedial Action Work Plan and that the results of such inspections are promptly provided to Settling Defendant, EPA, and the State. The Resident Engineer may act as the QA Official.

13. The Settling Defendant shall continue to implement the Remedial Action and, if determined by EPA to be necessary, O & M until the Performance Standards for the Source Location are achieved and for so long thereafter as is otherwise required under this Consent Decree.

14. Modification of the Work.

a. If EPA determines that modification of the Work is necessary to achieve and maintain the Performance Standards with respect to the Source Location or to carry out and maintain the effectiveness of the remedy set forth in the ROD, EPA may (1) require that such modification be incorporated into the Remedial Design Work Plan, Remedial Action Work Plan,

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Operation and Maintenance Plan, and/or any other plan relating to such Work, and/or (2) require that Settling Defendant submits a plan for EPA approval which incorporates such modification to the Work at the Source Location and implement such approved plan. EPA may require a modification pursuant to this Paragraph only to the extent that the modification is directed to Work that is conducted on or at the Source Location, and only to the extent that it is consistent with the scope of the remedy selected in the ROD. No modification shall make Settling Defendant jointly liable, or jointly obligated for the completion of the ROD as it pertains to the signatories to the Companion Consent Decrees or as it pertains to activities at the Site other than Work at or on the Source Location.

b. For the purposes of this Paragraph 14 and Paragraphs 50 and 51 only, and subject to the limitations in Paragraph 6, the "scope of the remedy selected in the ROD" means:

- tasks employing a technology or combination of technologies discussed in Section X [Selected Remedy and Performance Standards] of the ROD to achieve and maintain the objectives described in the ROD. The technologies discussed in Section X of the ROD include:
 - extraction of contaminated ground water;
 - treatment of the contaminated ground water via air-stripping;

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- additional treatment of the liquid phase as necessary to meet discharge limits;
 - discharge to surface water;
 - treatment of the gas stream from the air stripper using granular activated carbon or ultraviolet oxidation; and
 - hook-up of residences to public water as required by the ROD.
- tasks associated with monitoring of Operable Unit 3 conditions and the effectiveness of the Remedial Action.

c. If Settling Defendant objects to any modification determined by EPA to be necessary pursuant to this Paragraph, it may seek dispute resolution pursuant to Section XIX (Dispute Resolution), Paragraph 68 (record review). The Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or related work plans shall be modified in accordance with final resolution of the dispute.

d. Settling Defendant shall implement any work required by any modifications incorporated in the Remedial Design Work Plan, Remedial Action Work Plan, Operation and Maintenance Plan, and/or in work plans developed in accordance with this Paragraph.

e. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree.

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15. Settling Defendant acknowledges and agree that nothing in this Consent Decree or the Remedial Design or Remedial Action Work Plans constitutes a warranty or representation of any kind by Plaintiff that compliance with the work requirements set forth in the Work Plans will achieve the Performance Standards.

16. Settling Defendant shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator of such shipment of Waste Material. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards.

a. The Settling Defendant shall include in the written notification the following information, where available:

1. the name and location of the facility to which the Waste Material is to be shipped;
2. the type and quantity of the Waste Material to be shipped;

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3. the expected schedule for the shipment of the Waste Material; and

4. the method of transportation.

The Settling Defendant shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by the Settling Defendant following the award of the contract for Remedial Action construction. The Settling Defendant shall provide the information required by Paragraph 16.a as soon as practicable after the award of the contract but in no case less than seven (7) days before the Waste Material is actually shipped.

VII. REMEDY REVIEW

17. Periodic Review. Settling Defendant shall conduct any studies and investigations of the Source Location as requested by EPA, but only to the extent that such studies and investigations are conducted and completed within the property boundaries of the Source Location, in order to permit EPA to conduct reviews of whether: (1) the Remedial Action is protective of human health and the environment; and (2) the

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Remedial Action meets or provides a basis for waiving ARARs identified for the Remedial Action in the ROD (including technical impracticability from an engineering perspective pursuant to CERCLA Section 121(d)(4), 42 U.S.C. § 9621(d)(4)). EPA shall conduct such reviews at least every five (5) years as required by Section 121(c) of CERCLA and any applicable regulations. EPA shall conduct studies and investigations, if required by Section 121(c), at the following locations: the Keystone Hydraulics Facility located at 834 West Third Street, Lansdale Pennsylvania; the Royal Cleaners Facility located at 1315 North Broad Street, Hatfield, Pennsylvania; the Tate Andale Facility located at 135 East Hancock Street, Lansdale, Pennsylvania; the Westside Industries Facility located at 5th and Mitchell Streets, Lansdale, Pennsylvania; the Electra Products Facility located at 200 West 5th Street, Lansdale, Pennsylvania; and the Facility located at 9th and Moyers, Lansdale, Pennsylvania, and cause studies and investigations to be conducted, if required by Section 121(c), at the following locations: the John Evans and Sons Facility located at Maple and Spring Avenues, Lansdale, Pennsylvania; the J.W. Rex Facility, located at 8th Street and Valley Forge Road, Lansdale, Pennsylvania; the Parker Hannifin Facility located at 422 West Sixth Street, Lansdale, Pennsylvania; and the

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Central Sprinkler Facility located at 451 North Cannon Avenue, Lansdale, Pennsylvania, and conduct any sampling necessary to determine whether: (1) the Remedial Action is protective of human health and the environment; and (2) whether a waiver of ARARs should be granted on the technical impracticability.

18. EPA Selection of Further Response Actions. If EPA determines, at any time, that the Remedial Action is not protective of human health and the environment, EPA may select further response actions for the Site in accordance with the requirements of CERCLA and the NCP.

19. Opportunity To Comment. Settling Defendant and, if required by Sections 113(k)(2) or 117 of CERCLA, the public will be provided with an opportunity to comment on any further response actions proposed by EPA as a result of the review conducted pursuant to Section 121(c) of CERCLA and to submit written comments for the record during the comment period.

20. Settling Defendant's Obligation To Perform Further Response Actions. If EPA selects further response actions for OU3, it reserves its right to seek to have the Settling Defendant undertake such further response actions. Disputes pertaining to whether the Remedial Action is protective or to EPA's selection of further response actions shall be resolved pursuant to Paragraph 68 (record review).